



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE**

FEDERAL BUILDING, 10 West 15TH Street, Suite 3200
Helena, MT 59626-0096
Phone 866-457-2690
www.epa.gov/region8

Ref: 8 SEM-RBC

February 25, 2020

David Hutchins, Chairman
Citizens for Labor and Environmental Justice
clej@gmail.com

RE: Citizens for Labor and Environmental Justice comments on the Proposed Plan for an Amendment to the Butte Priority Soils Operable Unit Record of Decision, dated June 11, 2019

Dear Mr. Hutchins:

On February 13, 2020, you wrote an email to Nikia Greene, Remedial Project Manager for the Butte Priority Soils Operable Unit of the Silver Bow Creek/Butte Area Superfund Site (BPSOU), attaching a June 11, 2019 email which purported to transmit comments from the Citizens for Labor and Environmental Justice (CLEJ) on the April 2019 Proposed Plan for an Amendment to the Butte Priority Soils Operable Unit Record of Decision. Your email noted that the CLEJ comments were not included in the BPSOU Record of Decision Amendment and its responsiveness summary which addressed comments received on the April Proposed Plan.

Immediately upon receiving your February 13 email, EPA personnel searched the email accounts of Mr. Greene, EPA's Remedial Project Manager, Mr. Wardell, EPA's Community Involvement Coordinator at the time and the email account (BPSOUPPcomments@epa.gov) set up for receipt of comments on the April 2019 Proposed Plan. That search did not find any record of the June 11 CLEJ comments. EPA also asked its IT department and its email contractor to search these same accounts and that search also did not find any record of the receipt of the June 11 CLEJ comments.

EPA cannot explain why the comments were not received in the relevant email accounts, and we sincerely apologize to you and the CLEJ members and board for this situation.

The EPA does take CLEJ concerns and input about the 2020 BPSOU Record of Decision Amendment and the planned remediation for the BPSOU very seriously. We will carefully review the June 11 CLEJ comments and prepare a detailed response to those comments. Both the June 11 CLEJ letter and the EPA response will be included in the administrative record supporting the BPSOU Record of Decision Amendment.

Additionally, if the proposed Consent Decree implementing the remedial actions required by the 2006 BPSOU Record of Decision as amended by the 2020 BPSOU Record of Decision Amendment is approved by BSB and lodged with the federal district court of Montana, a separate comment period will

be held on the consent decree (which includes the 2020 BPSOU Record of Decision Amendment as Appendix A) by the U.S. Department of Justice. If that occurs, EPA will notify you and CLEJ of that comment period and how you can submit comments on the entire consent decree at that time.

Finally, EPA double checked the accounts described above to determine if any comments received were not included in the responsiveness summary. All comments received are in the administrative record for the 2020 BPSOU Record of Decision Amendment. We have not had any communication from any other party or person noting that their comments were not included in the responsiveness summary.

Again, we apologize for this occurrence, and we look forward to continuing to work with you and the CLEJ as the BPSOU cleanup proceeds.

Sincerely,



Joseph Vranka, P.E.

Supervisor

Montana Remedial Section C

Superfund and Emergency Management Division

cc:

Chris Wardell, EPA

Nikia Greene, EPA

Betsy Smidinger, EPA SEMD Director

Aaron Urdiales, Superfund Remedial Branch Chief

Henry Elsen, EPA attorney